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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

FORMLABS, INC. and TREK BICYCLE  
CORPORATION,

Plaintiffs,

- against -

FLEXPORT INTERNATIONAL LLC,

Defendant.

Case No. 22-cv-494

**COMPLAINT**

Plaintiffs Formlabs, Inc. and Trek Bicycle Corporation (“Plaintiffs”), by and through their attorneys Hill Rivkins LLP, as and for their Complaint against Defendant Flexport International LLC (“Flexport”), allege upon information and belief as follows:

1. This action arises from loss or damage to cargoes transported, or intended to be transported, by ocean carriage from Asia to the United States.
2. This action is comprised of admiralty and maritime claims within the meaning of Rule 9(h) of the Federal Rules of Civil Procedure and this Honorable Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1333.
3. The United States District Court for the Southern District of New York is the proper venue for this suit insofar as Defendant Flexport has filed a related action in this District, case no. 22-cv-00445, against certain ocean carriers seeking indemnity in connection with, *inter alia*, the claims alleged and damages sought by Plaintiffs herein.

4. At all times relevant hereto, Plaintiff Formlabs, Inc., (“Formlabs”) was and now is a corporation or other business entity organized and existing under Delaware law with an office and principal place of business at 35 Medford Street, Suite 201, Somerville, MA 02143.

5. At all times relevant hereto, Plaintiff Trek Bicycle Corporation (“Trek”) was and now is a corporation or other business entity organized and existing under Wisconsin law with an office and principal place of business at 801 W. Madison Street, Waterloo, WI 53594.

6. At all times relevant hereto, Plaintiffs were the consignees, receivers, and/or owners of the cargoes described in Schedule A (the “Cargoes”), which is annexed hereto and incorporated herein by reference.

7. At all times relevant hereto, Defendant Flexport was and now is a business entity organized and existing under Delaware law, with an office and place of business at 760 Market Street, 8th Floor, San Francisco, CA 94102, engaged in business as a non-vessel operating common carrier (“NVOCC”) and/or ocean transportation intermediary (“OTI”), licensed by and registered with the U.S. Federal Maritime Commission (license no. 025219), issuing bills of lading and/or sea waybills for the common carriage of goods aboard ocean-going vessels.

8. In or about December 2020 at the places of receipt identified in Schedule A, the Cargoes were tendered to and delivered into the custody and/or control of Defendant Flexport (and/or its agents, servants, and/or subcontractors) in good order and condition, and suitable in every respect for the intended transportation, which Defendant Flexport received, accepted, and agreed to transport by ocean carriage to destination, for certain consideration and payment of freight charges, in the shipping containers and under the bills of lading and/or sea waybills identified in Schedule A.

9. However, on or about January 16, 2021, numerous containers fell overboard from the M/V MAERSK ESSEN and were lost at sea in the North Pacific (the “Casualty”), including those identified in Schedule A.

10. Defendant Flexport (and/or its agents, servants, and/or subcontractors) thus failed to deliver the Cargoes to their destination in the same good order and condition as they were received.

11. By reason of the premises, Defendant Flexport (and/or its agents, servants, and/or subcontractors, for whom Defendant Flexport is responsible) breached its statutory, contractual, and/or common law duties and obligations as an NVOCC, OTI, and/or bailee of the Cargoes; was negligent and careless in its handling of the Cargoes; and is otherwise liable for the losses and damages described herein.

12. Plaintiffs bring this action on their own behalf and on behalf of all parties who are or may become interested in the cargoes described in Schedule A, including but not limited to cargo underwriters, as their respective interests may ultimately appear, and Plaintiffs are entitled to maintain this action.

13. All obligations and conditions precedent to be performed by Plaintiffs, and/or the shippers, consignees, receivers, and/or owners of the Cargoes, have been performed, waived, or otherwise excused, including the payment of freight.

14. By reason of the premises, Plaintiff Formlabs has sustained damages, as nearly as the same can now be estimated, no part of which has been paid although duly demanded, in the amount of \$45,919.20.

15. By reason of the premises, Plaintiff Trek has sustained damages, as nearly as the same can now be estimated, no part of which has been paid although duly demanded, in the amount of \$291,062.09.

WHEREFORE, Plaintiffs pray:

- i. that process be issued against Defendant Flexport in due form of law according to the practice of this Honorable Court, citing it to appear and answer the foregoing;
- ii. that judgment be entered against Defendant Flexport in favor of Plaintiff Formlabs in the amount of \$45,919.20, together with costs and interest;
- iii. that judgment be entered against Defendant Flexport in favor of Plaintiff Trek in the amount of \$291,062.09, together with costs and interest; and
- iv. for such other and further relief as this Honorable Court deems just and proper under the circumstances.

Dated: New York, New York  
January 19, 2022

HILL RIVKINS LLP  
*Attorneys for Plaintiffs*

By:  \_\_\_\_\_

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**SCHEDULE A**

Bill of Lading/Sea Waybill: FLXT-00000993423A  
Container: TGBU8054415  
Cargo: Printers  
Consignee: Formlabs  
Place of Receipt: Hong Kong  
Plaice of Delivery: Oakland, California  
Nature of Loss: Non-Delivery

Bill of Lading/Sea Waybill: FLXT-00000964389A  
Container: TGBU8054415  
Cargo: Cycling Apparel  
Consignee: Trek  
Place of Receipt: Hong Kong  
Plaice of Delivery: Los Angeles, California  
Nature of Loss: Non-Delivery  
Claim Amount: \$291,062.09

Bill of Lading/Sea Waybill: FLXT-00000989416A  
Container: TGBU8054415  
Cargo: Bicycle Wheel Rims  
Consignee: Trek  
Place of Receipt: Hong Kong  
Plaice of Delivery: Los Angeles, California  
Nature of Loss: Non-Delivery